

PLAN COMMISSION MEETING MINUTES
TUESDAY, AUGUST 23, 2016
Sister Bay-Liberty Grove Fire Station -2258 Mill Road

The August 23, 2016 meeting of the Plan Commission was called to order by Chairperson Dave Lienau at 5:30 P.M.

Present: Chairperson Lienau and members Scott Baker, Nate Bell, Don Howard, Marge Grutzmacher, and Shane Solomon.

Excused: Mary Kay Shumway and Village Administrator Zeke Jackson

Staff Members: Assistant Administrator Janal Suppanz

Others: Ronald and Barbara Sense, Terry Wurster, Rob Zoschke and Laury Windsor.

Comments, correspondence and concerns from the public:

Lienau noted that no correspondence had been received, and then asked if anyone wished to comment regarding a non-agenda item. No one responded.

Approval of the agenda:

A motion was made by Grutzmacher, seconded by Bell that the Agenda for the August 23, 2016 meeting of the Plan Commission be approved as presented. Motion carried – All ayes.

Approval of minutes as published:

As to the minutes for the July 26, 2016 meeting of the Plan Commission:

A motion was made by Baker seconded by Grutzmacher that the minutes for the July 26, 2016 meeting of the Plan Commission be approved as presented. Motion carried – All ayes.

Business Items:

Item No. 2. Consider a motion to hold a Public Hearing on a request by Ronald Sense to rezone Parcel No. 181-00-083122833F, which has been assigned an address of 2455 Flint Ridge Road; Discussion regarding the proposed rezoning; Consider a motion to approve or deny said request:

At 5:35 P.M. Lienau called the Public Hearing on Ron and Barbara Sense's request to rezone Parcel No. 181-00-083122833F, which has been assigned an address of 2455 Flint Ridge Road to order.

The Sense's would like to replace the existing home on their property which is located near the intersection of STH 57 and Orchard Drive with a new home, and would also like to gift a portion of their property to two of their children. Their property is currently located in the B-1, (General Business), District. At this time the Village's Zoning Code does not allow a single family home to be constructed in the B-1 District.

The Village's Comprehensive Plan states that two land uses, CS-1 (Countryside) and R-3, (Large Lot Residential), should be encouraged in the area in question. Another potential use would be B-1 (General Business).

- 1 • R-3 zoning would allow for the construction of a new home and the
2 desired land division.
- 3
- 4 • CS-1 zoning would allow the Senses to build a new home, but they
5 would have to retain a minimum of 10 acres of land, which would not
6 accommodate their desire to gift property to two of their children.
- 7
- 8 • One option would be creation of a text amendment which allows single
9 family homes in the B-1 District. The Village did enact a restriction on
10 future construction of single family homes in the B-1 District, in part
11 because of changes in banking regulations which occurred as a result of
12 the Great Recession.
- 13
- 14 • Another option would be for the Senses to see that a CSM is prepared
15 for their property and request that a minimum of five acres of it be re-
16 zoned to R-3.
- 17

18 Recently a neighbor of the Senses, Terry Wurster, the owner of Dovetrail Trading, voiced
19 some concerns about the possibility of eliminating the business corridor along STH 57, which
20 could occur at some point in time if re-zoning does occur. He also voiced concerns that land
21 values in the area could be reduced.

22

23 Basically the following options are available to the Plan Commission with respect to the
24 Sense's request:

- 25
- 26 1. The Commission members could grant the request and re-zone the property
27 in question to R-3. (This option would accommodate the Senses, but not
28 necessarily address any of the concerns which have been raised by Mr.
29 Wurster.)
- 30
- 31 2. The Commission members could recommend that a text amendment be
32 drafted which allows single family homes in the B-1 District.
- 33
- 34 3. The Senses could see that a CSM is created for their property and
35 simultaneously request that a minimum of five acres of it be re-zoned to R-
36 3. In a phone conversation with Mr. Sense on Monday, he indicated that
37 after discussing the issue with his neighbors, he actually prefers this option.
38 Staff concurs with Mr. Sense, and is recommending that after tonight's
39 public hearing has been conducted this item be tabled until such time as
40 Mr. Sense can produce a CSM which is suitable to himself and the Village
41 for Plan Commission consideration.
- 42

43 Lienau noted that a letter which had been signed by Terry and Linda Wurster, David
44 Peterson, Rodney and Paula Hedeon, Scott Barnes, Fred Johnson, and Carri Franke was
45 provided to the Plan Commission members prior to this meeting and read that letter aloud.
46 In that letter the previously mentioned individuals urge the Plan Commission to either
47 recommend that a text amendment which allows residential construction in the B-1 District

1 be approved, or, if that will not be possible, that a text amendment which allows for
2 replacement of an existing residence on parcels in the B-1 District be approved.

3
4 Ron Sense noted that he did send an informational letter out to all his neighbors regarding
5 the previously mentioned request as he didn't want any of them to question his intentions.
6 At the time that he and his wife bought their property it was not zoned B-1, and he was not
7 aware that it had been rezoned until just recently. They always intended to upgrade the
8 home which is on their property, and would like to gift some of the property to two of their
9 children.

10
11 Terry Wurster stated that he owns Dovetail Trading, which is located at 10282 STH 57, and
12 has no objections to the Senses upgrading the home which is on their property, but is
13 concerned that the business corridor will be eliminated if the Sense's rezoning request is
14 granted. He and his wife would prefer to not see the zoning designation in the area in
15 question change at all, and, instead, believe that an applicable Zoning Code text amendment
16 should be made.

17
18 Laury Windsor, who owns property at 10321 Country Lane, stated that she doesn't have any
19 objections to the Sense's request and believes they should be accommodated. She also asked
20 how the Sense's property got rezoned in the first place, and voiced concerns about the fact
21 that the Senses were not aware that the rezoning had occurred. Lienau explained that the
22 property was rezoned several years ago in accord with the Village's Comprehensive Plan,
23 and at that time a public hearing was conducted.

24
25 *At 5:49 P.M. Lienau asked if anyone else wished to comment regarding the Sense's request, and when*
26 *no one responded he declared that the public hearing was officially closed.*

27
28 *A motion was made by Lienau, seconded by Solomon that Agenda Item No. 2 - Consider a motion to*
29 *hold a Public Hearing on a request by Ronald Sense to rezone Parcel No. 181-00-083122833F, which*
30 *has been assigned an address of 2455 Flint Ridge Road; Discussion regarding the proposed rezoning*
31 *request; Consider a motion to approve or deny said request; shall be tabled until a future meeting of*
32 *the Plan Commission. Motion carried - All ayes.*

33
34 **Item No. 1. Consider a motion to hold a Public Hearing on the proposed redraft of**
35 **§66.0700 of the Village of Sister Bay Sign Code; Discussion on the proposed redraft of the**
36 **Sister Bay Sign Code; Consider a motion to recommend adoption by the Village Board:**

37 The U.S. Supreme Court's Decision regarding the case entitled, "Reed v. Town of Gilbert"
38 struck down a local government's Sign Code as a violation of the freedom of speech
39 guaranteed by the First Amendment. The Sign Code for the Town of Gilbert, AZ prohibited
40 the display of outdoor signs without a permit, but then exempted 23 categories of signs from
41 that requirement. Three categories of exempt signage were relevant to the case: Ideological
42 signs, political signs and temporary directional signs related to a qualifying event. Clyde
43 Reed, the pastor of Good News Community Church, wanted to advertise the time and
44 location of Sunday church services. The church did not own a building in the Town of
45 Gilbert and held services in elementary schools or other locations in or near the Town. The
46 church began placing 15 to 20 signs around town early in the day on Saturdays to announce
47 the time and location of upcoming services and they were removed around midday on
48 Sundays. Eventually Town officials cited the church for violating the Town's Sign Code.

1 Efforts by the church to reach an accommodation with the Town proved to be unsuccessful,
2 and the church eventually initiated a lawsuit against the Town, arguing that the Sign Code
3 abridged their freedom of speech – a violation of the U.S. Constitution. Eventually the case
4 was referred to the U.S. Supreme Court, and the Court ruled that Sign Codes which
5 distinguish between political signs, ideological signs, or temporary directional signs to
6 certain events are considered to be content-based. (Specifically the Court stated, “Content-
7 based laws – those that target speech based on its communicative content – are
8 presumptively unconstitutional and may be justified only if the Government proves that
9 they are narrowly tailored to serve compelling State interests”.)

10
11 In light of “Reed v. Town of Gilbert” the Village can basically only regulate the location, size,
12 and duration of display of a sign as well as the materials it is constructed of, illumination of
13 it, and portability, and, therefore, it will be necessary for a number of revisions to be made to
14 the Village’s Sign Code. An applicable draft was included in the meeting packets.

15
16 *At 5:55 P.M. Lienau called the public hearing on the proposed redraft of §66.0700 of the Village of*
17 *Sister Bay Sign Code to order and then asked if anyone wished to comment regarding the proposed*
18 *amendments. No one responded, and, therefore, at 5:57 P.M. he declared that the Public Hearing was*
19 *officially closed.*

20
21 *A motion was made by Solomon, seconded by Baker that the Plan Commission recommends that the*
22 *Village Board approve the proposed amendments to the Village of Sister Bay Sign Code which were*
23 *reviewed at this meeting as presented. Motion carried – All ayes.*

24
25 **Report by the Zoning Administrator regarding development activities, various**
26 **enforcement actions, and issuance of Sign and Zoning Permits:**

27 Since Jackson was not present no Administrator’s Report was given.

28
29 **Item No. 3. Matters to be placed on a future agenda or referred to a committee, official or**
30 **employee:**

31 *It was the consensus that the following issue shall be addressed at a future meeting of the Plan*
32 *Commission:*

- 33
 - *The Sense’s rezoning request.*

34
35 *Due to scheduling conflicts the special meeting of the Plan Commission has been rescheduled for 5:30*
36 *P.M. on Thursday, September 1, 2016. At that meeting several site and architectural plans as well as*
37 *the revised Goat Finial option for the Village’s Wayfinding Signage Project will be reviewed and*
38 *addressed.*

39
40 **Adjournment:**

41 *A motion was made by Grutzmacher, seconded by Howard to adjourn the meeting of the Plan*
42 *Commission at 6:04 P.M. Motion carried – All ayes.*

43
44 Respectfully submitted,

45 

46 Janal Suppanz, Assistant Administrator